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MAR 22 2007

CASE NO.: 50M2824.02
Serial No.: 10/656,044
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Filed: September 5, 2003Remarks

Reconsideration of the above-captioned application is respectfully requested. Of the claims that remain pending, Claims 1, 4, 5, 24-29, 31, 32, 37, and 38 (including the three independent claims 1, 24, 29, and 37) have been rejected under 35 U.S.C. §102 as being anticipated by Lownes, USPN 6,369,861, in which the "enter" key is pressed between a channel number input and a program number input, unlike the present claims as now amended, which either specify that the delimiter is entered by something other than an enter key or that the delimiter is a dot.

Thus, of relevance to the presently amended claims is the rejection of former Claims 2 and 33 under 35 U.S.C. §103 as being unpatentable over Lownes in view of Mallozzi et al., USPN 4,962,459, used as a teaching of a dot for a delimiter. Mallozzi et al. is directed to postage meters in which a dot is used to delimit cents from dollars.

To define what is and is not analogous art, the person of ordinary skill in the art of the subject invention first must be defined, since if a person of ordinary skill in the relevant art is a dyer, not a chemist, the person may have no knowledge of chemistry and hence chemical references would not be analogous, Dystar Textilfarben GmbH v. C. H. Patrick Co., no. 06-1088 (Fed. Cir. 2006). In the Office Action, the person of skill in the art has not been defined. Applicant will supply the shortfall. The skilled artisan is a TV engineer. A TV engineer would not logically commend his attention to the postage meter art (see MPEP §2141.01(a)), absent evidence (highly unlikely) to the contrary. Accordingly, Mallozzi et al. is not analogous to the present invention or to Lownes, overcoming the rejection.

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Further, nothing in Lownes suggests using a key other than the "enter" key in the first embodiment of the channel entry method discussed in columns 6 and 7 and relied on in the rejection, and nothing in Mallozzi et al. considers a TV, much less using a dot to delimit a program number from a channel number. Accordingly, no suggestion exists to modify Lownes to use a dot.

In addition, combining Mallozzi et al. with Lownes would not result in the claims. The only teaching about channel delimiters is Lownes, which as admitted in the Office Action fails to teach or suggest using anything other than the "enter" key in the relied-upon first embodiment. Adding Mallozzi et al. to Lownes would thus result in what the references teach, namely, using the enter key of Lownes to delimit between channels and then using what is fast becoming an all purpose handy remote control to instruct a postage meter where dollar values end and cent values begin.

To complete the statement of rejections, Claim 3 has been rejected under 35 U.S.C. §103 as being unpatentable over Lownes in view of Pegg, USPN 5,163,097, which does not relate to TVs much less TV channels and so is not analogous for reasons above; Claim 30 has been rejected under 35 U.S.C. §103 as being unpatentable over Lownes in view of Ozkan et al., USPN 6,111,611; and Claim 6 has been rejected under 35 U.S.C. §103 as being unpatentable over Lownes in view of Brian et al., USPN 5,548,345, which indeed has two keypads but not both on a remote control device as now claimed.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

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The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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